

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814
<http://www.dgs.ca.gov/opsc>



Date: January 23, 2004

To: Interested Parties

Subject: **NOTICE OF THE STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING**

Notice is hereby provided that the State Allocation Board Implementation Committee will hold a meeting on Friday, February 6, 2004 (9:30 am - 3:30 pm) at 1020 N Street (Legislative Office Building) in Conference Room 100 (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting
2. Clean School Restrooms (SB 892 Murray)
Discussion of the complaint process relating to the sufficiency and availability of restroom facilities in all K-12 public schools.
3. Hazardous Waste Removal Costs (AB 1008 Dutton)
Discussion of the audit adjustment to the new construction grant for additional hazardous waste removal costs.
4. SFP New Construction Additional Grant for Energy Efficiency
Discussion of proposed regulatory amendments relating to the new construction additional grants for energy efficiency.

Any interested person may present public testimony or comments at this meeting regarding the issues scheduled for discussion. Any public input regarding unscheduled issues should be presented in writing, which may then be scheduled for a future meeting. For additional information, please contact Portia Jacobson at (916) 445-3159.

A handwritten signature in black ink, appearing to read "Bruce B. Hancock", with a long horizontal flourish extending to the right.

BRUCE B. HANCOCK
Chairperson

BBH:LM:pj

**State Allocation Board
Implementation Committee
February 6, 2004**

**CLEAN SCHOOL RESTROOMS
(SB 892 Murray)**

BACKGROUND

Senate Bill (SB) 892, chaptered on October 12, 2003, added Section 35292.5 to the Education Code (EC). With an effective date of January 1, 2004, EC Section 35292.5 contains the following requirements relating to the sufficiency and availability of restroom facilities in all public and private schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- All school restrooms must be open during school hours when pupils are not in classes, and a sufficient number of restrooms must be kept open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).

SB 892 requires the State Allocation Board (SAB) to determine a district's compliance with EC Section 35292.5, and directs the SAB to make a school district ineligible for state matching funds for deferred maintenance projects if, after receiving a reasonable opportunity to fix the problem and a 30-day notice of violation, the restroom facilities remain in violation of the law. In order to fulfill its responsibility to administer the law and comply with the law's effective date of January 1, 2004, the Office of Public School Construction (OPSC) was obligated to expedite the mechanism by which complaints could be received and processed.

In response to numerous media contacts, the Department of General Services issued a press release on January 9, 2004. The press release provided a summary of SB 892, described the SAB's role in the law's implementation, and announced the establishment of the toll-free *California Public School Restroom Complaint Hotline* (1-866-869-5063).

DISCUSSION

To comply with SB 892, the OPSC undertook proactive measures to ensure that the public was given an accurate account of the provisions and limitations of the OPSC's role pursuant to the law. In order to enable the SAB to make the determination of compliance as required by SB 892, the hotline provided a mechanism for concerned parties to file complaints about the condition of public school restrooms. The OPSC continues to define its proposed processes to address complaints and violation determinations and welcomes input from the Committee and audience.

For purposes of discussion, staff has provided a flow chart of the proposed process on Attachment A, and the proposed timelines for the actual withholding of deferred maintenance funds are provided on Attachment B. The proposed forms are shown on Attachment C. The text of SB 892 is provided on Attachment D.

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Discussion of proposed regulatory amendments relating to the new construction additional grants for energy efficiency.

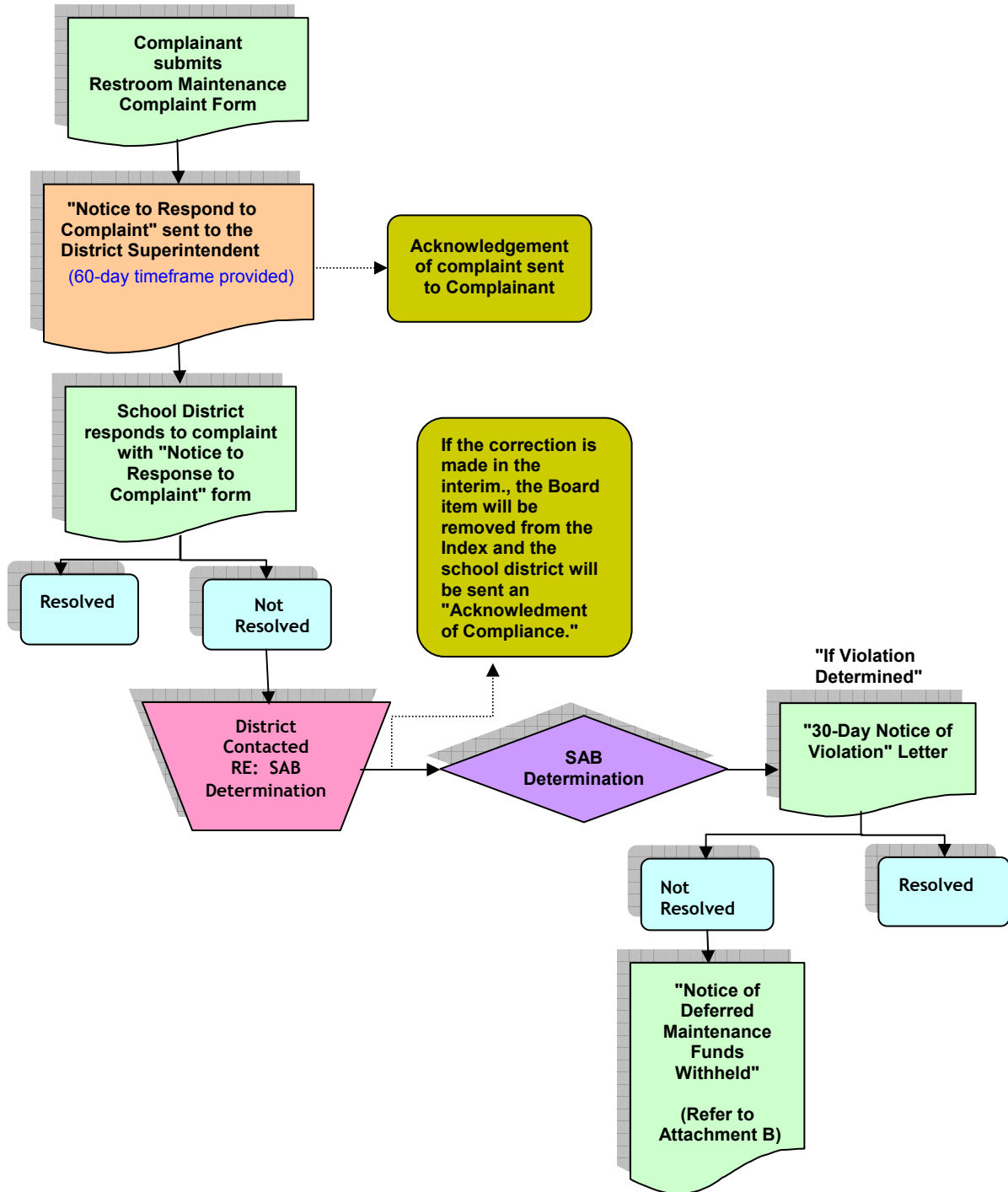
Any interested person may present public testimony or comments at this meeting regarding the issues scheduled for discussion. Any public input regarding unscheduled issues should be presented in writing, which may then be scheduled for a future meeting. For additional information, please contact Portia Jacobson at (916) 445-3159.

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BRUCE B. HANCOCK
Chairperson

BBH:LM:pj

ATTACHMENT A
School Restroom Maintenance
Senate Bill 892

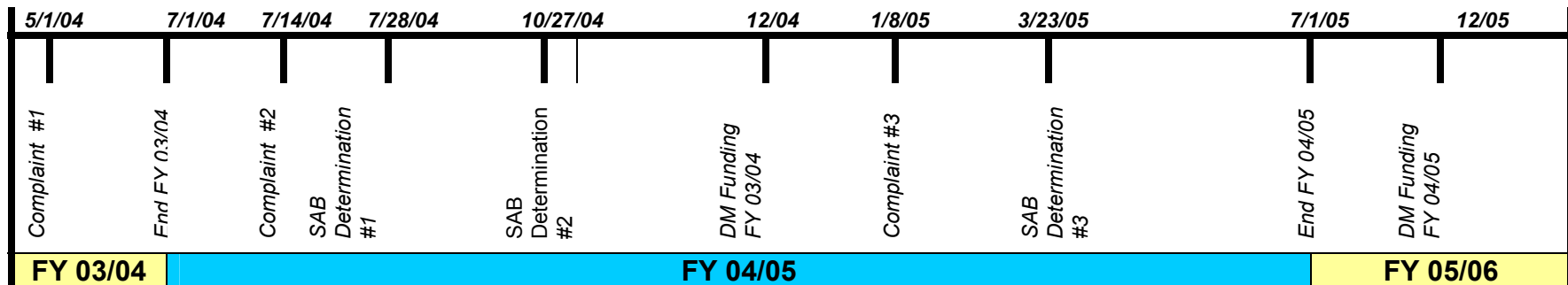


ATTACHMENT B

SB 892 – School Restroom Maintenance Proposed Withholding of Deferred Maintenance (DM) Funds

SB 892 directs the State Allocation Board (SAB) to make a school district ineligible for state matching funds for deferred maintenance projects, if the district is determined to be in violation of the law. Prior to presenting its recommended proposal to the SAB regarding when the DM funds should be withheld, staff is soliciting suggestions and provides two options to begin the discussion as follows:

- **OPTION I** - *DM funds withheld for the same fiscal year of Board determination.*
- **OPTION II** - *DM funds withheld from the next available DM funding cycle following the Board's determination.*



OPTION I - *DM funds withheld for the same fiscal year of Board determination*

Example: If three SAB determinations were made during FY 04/05, the funds were withheld at the Annual DM Funding for FY 04/05 (which occurs in December 2005). Multiple SAB determinations within a given fiscal year results in one withholding of DM funding item.

OPTION II - *DM funds withheld from the next available DM funding cycle following the Board's determination.*

Example: If three SAB determinations were made during FY 04/05, the funds were withheld for SAB determinations #1 and #2 at the DM Funding for 03/04. Funds were withheld for SAB determinations #3 at the DM Funding for 04/05. Multiple SAB determinations within the same fiscal year could result in the withholding of DM funds for two consecutive years.

ATTACHMENT C

General Information

As of January 1, 2004, Section 35292.5 was added to the Education Code and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

This form is used to report complaints for inadequate conditions in public school restroom facilities. If the complaint involves multiple restrooms, **please use a separate form for each restroom.**

Specific Instructions

Form Cell

Instructions

School District	Enter name of school district of school where complaint is located.
County	Enter name of county where school district is located.
Name of school	Enter name of school site where complaint is located.
School site address	Enter street address, city and zip code of school site where complaint is located.
Location of restroom facility	Name specific physical location of restroom in the complaint; use landmarks, such as "boys/girls on east side of gymnasium" for reference.
Type of complaint	Check the box next to all complaint codes that apply to the complaint being reported.
Please explain your observations in detail	Provide details to further explain the type of complaints that are checked in the "type of complaint" form cell.

NOTE: Please complete all requested information in order for the Office of Public School Construction to address your concerns in a timely manner.

RESTROOM MAINTENANCE COMPLAINT

SCHOOL FACILITY PROGRAM

SAB 892 (NEW 01/04)

TO BE PROCESSED THIS FORM MUST BE COMPLETED IN ITS ENTIRETY

SCHOOL DISTRICT	COUNTY
NAME OF SCHOOL SITE	SCHOOL SITE ADDRESS (STREET, CITY, ZIP CODE)
LOCATION OF RESTROOM FACILITY (I.E., NORTH END OF CAMPUS NEAR GYM, CAFETERIA RESTROOM, ETC.)	

EXAMPLES OF DEFICIENCIES OBSERVED (PLEASE CHECK ALL THAT APPLY):**Plumbing, Equipment and Supplies (hand soap, paper towels, etc.)**

- | | |
|---|---|
| <input type="checkbox"/> P-100 Toilet damaged/missing | <input type="checkbox"/> E-101 Lavatory Stall Doors and/or Locks missing/inoperable |
| <input type="checkbox"/> P-101 Toilet leaking/clogged | <input type="checkbox"/> E-102 Paper Towel Dispenser missing/inoperable |
| <input type="checkbox"/> P-102 Lavatory Sink damaged/missing | <input type="checkbox"/> E-103 Toilet Paper Dispenser missing/inoperable |
| <input type="checkbox"/> P-103 Faucets or Pipes damaged/leaking | <input type="checkbox"/> E-104 Soap Dispensers missing/inoperable |
| <input type="checkbox"/> P-104 Floor drains clogged | <input type="checkbox"/> S-100 Soap Dispensers consistently empty |
| <input type="checkbox"/> P-105 Lavatory Sink clogged | <input type="checkbox"/> S-101 Paper towel dispensers consistently empty |
| <input type="checkbox"/> E-100 Electric Hand Dryers damaged/missing | <input type="checkbox"/> S-102 Toilet paper missing/unusable on a consistent basis |

Condition of Restroom/Miscellaneous

- | |
|---|
| <input type="checkbox"/> C-100 Floors unclean on a consistent basis |
| <input type="checkbox"/> C-101 Walls/Ceilings unclean on a consistent basis |
| <input type="checkbox"/> C-102 Trash Receptacles not emptied consistently |
| <input type="checkbox"/> C-103 Toilets/Urinals unclean/unusable on a consistent basis |
| <input type="checkbox"/> C-104 Restroom Facility closed for an extended period |
| <input type="checkbox"/> M-100 Miscellaneous—Summarize below |

OBSERVATIONS/MISCELLANEOUS COMMENTS (PLEASE EXPLAIN IN DETAIL):

COMPLAINANT (PRINT NAME)	TELEPHONE
SIGNATURE OF COMPLAINANT	DATE

PLEASE MAIL/FAX COMPLETED FORM TO: **Office of Public School Construction**
1130 K Street, Suite 400
Sacramento, CA 95814
FAX: 916.445.5526

**RESPONSE TO RESTROOM MAINTENANCE
COMPLAINT**

EDUCATION CODE SECTION 35292.5

SAB 892R NEW (01/04)

General Information

As of January 1, 2004, Section 35292.5 was added to the Education Code (EC) and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

This form is used to respond to complaints received by the Office of Public School Construction on the *Restroom Maintenance Complaint*, Form SAB 892. Failure to respond to complaints may result in the school district being ineligible for state deferred maintenance fund matching apportionments pursuant to EC Section 17584.

Specific InstructionsForm CellInstructions

School District

Enter name of school district of school where complaint was located.

County

Name of county where school district is located.

5-Digit District Code

California Department of Education assigned district code number.

School site where deficiency observed

Enter name of school campus where complaint was located.

Location of restroom facility

Name specific physical location of restroom in the complaint, use landmarks, such as "boys/girls on east side of gymnasium" for reference.

Complaint Code(s)

Enter complaint code number from the chart provided. Codes have a one letter prefix with a three number code attached.

Comments

Describe in detail how the complaint was addressed and/or repaired.

Date Corrected

Enter date corrective action took place.

ATTACHMENT D

Senate Bill No. 892

CHAPTER 909

An act to add Section 35292.5 to the Education Code, relating to schools.

[Approved by Governor October 12, 2003. Filed
with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 892, Murray. School restrooms.

Existing law exempts public and private schools from provisions relating to the sufficiency of public facility restrooms, and provides for the maintenance and repair of public school facilities by school districts.

This bill would, with certain exceptions, require every public and private school to have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

This bill would make a school district ineligible for prescribed state school facilities deferred maintenance matching funding if, after a 30-day notice period and a reasonable opportunity to cure the violation, a public school it operates remains in violation of this bill.

The people of the State of California do enact as follows:

SECTION 1. Section 35292.5 is added to the Education Code, to read:

35292.5. (a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible

for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

SEC. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

SEC. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118505 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution.

**State Allocation Board
Implementation Committee
February 6, 2004**

**HAZARDOUS WASTE REMOVAL COSTS
(AB 1008 Dutton)**

BACKGROUND

Assembly Bill (AB) 1008 adds Section 17072.14 to the Education Code (EC), and allows "...adjustments to a new construction grant if, as a result of additional requirements imposed by the Department of Toxic Substances Control (DTSC), the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal exceeds the amount of the grant apportionment for those purposes."

EC Section 17072.14 requires that the total adjusted apportionment for hazardous waste removal "may not exceed the amount permitted pursuant to EC Section 17072.13" (the provision for the 150 percent cost cap for toxic site acquisition/clean-up).

DISCUSSION

Reimbursement Timelines

Since the law stipulates that the "actual amount paid" for hazardous waste removal be known, the adjustment would occur during audit. Prior to the final expenditure audit, the allowable costs of hazardous waste removal can be included in the apportionments at various stages of the project up to and including the time of the adjusted grant. With the proposed amendment to SFP regulations pursuant to AB 1008, the district may be able to receive a post-apportionment reimbursement for hazardous waste removal costs before the project's final expenditure audit by requesting a one-time early site audit. The table below includes this additional opportunity, and identifies the various stages during the course of a project when compensation for costs associated with hazardous waste removal can occur.

<i>Project Stage</i>	<i>New Construction - Financial Hardship</i>	<i>New Construction</i>
Site or Site/Design	✓	
Environmental Hardship Request	✓	✓
Adjusted Grant	✓	✓
One-Time Early Site Audit	✓	✓
Final Expenditure Audit	✓	✓

✓ = Opportunity to receive funding for hazardous waste removal costs.

Beyond the timelines identified in the table, there are no further provisions for additional adjustments to the new construction grant.

As indicated at the January Implementation Committee meeting, staff recognizes that “additional DTSC requirements” could be imposed as a result of various scenarios, including:

- New DTSC regulations or changes to existing DTSC regulations.
- The discovery of hazardous waste materials at a school site previously determined to be clean.
- An increase in the magnitude and associated costs of the hazardous waste cleanup originally projected for the school site.

As stated previously, it is staff’s intent to ensure that the State grant for allowable hazardous waste removal costs associated with all new construction - for new sites, existing sites, and leased sites - may be adjusted at the time the project is audited if additional DTSC requirements occurred during the course of the project, even if the district had not previously requested these costs on its SFP funding application.

Adjustment Provisions

Section 1859.106, *Program Accountability Expenditure Audit*, currently provides the basic mechanism by which to adjust the new construction grant for hazardous waste removal for projects that previously requested costs for hazardous waste removal costs. Staff is proposing minor adjustments to clarify that this adjustment can occur on a new, leased, or existing site.

Current regulations do not allow an adjustment for hazardous waste removal costs for projects, which have not previously requested the additional grant for “Hazardous Waste Removal/Response Action” on the application for funding. AB 1008 allows an adjustment for hazardous waste removal costs for any new construction project, thereby providing the means to expand upon current regulations to include even those projects, which had not previously requested an additional grant for those purposes. Projects are audited according to the SFP guidelines and regulations in effect at the time the application for funding is received. To benefit from the adjustment pursuant to AB 1008, these projects would have to be received after the date the amended regulations are approved by the Office of Administrative Law.

RECOMMENDATION

Present the proposed regulatory amendments to the State Allocation Board as shown on Attachment A.

ATTACHMENT A

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:

- (a) The difference in the value of the site, relocation costs, DTSC fees, and the hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant, and the actual amount paid by the district for the site, ~~the relocation costs, the DTSC fees, and the costs for hazardous waste/materials removal costs, even if the hazardous waste/materials removal costs were not originally requested.~~
- (b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).
- (c) ~~The difference in the hazardous waste removal costs that was used to determine the New Construction Additional Grant for Hazardous Waste Removal on an Existing Site and the actual amount paid by the district for the allowable cost for hazardous waste removal.~~

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, ~~and~~ Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall

be based on the percentage of space in the project that the CDE determined did not meet those standards. Upon adoption of the finding by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10 (c).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52, 17072.13, 17072.14 and 17251, Education Code.

ATTACHMENT B

Assembly Bill No. 1008

CHAPTER 570

An act to add Section 17072.14 to the Education Code, relating to public schools.

[Approved by Governor September 28, 2003. Filed
with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1008, Dutton. Public school facilities funding: hazardous materials evaluation and removal.

Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition, including prescribed amounts for hazardous materials evaluation and response action for new construction projects.

This bill would authorize the board, within those limits, to adjust the grant amount for new construction projects if, due to increased requirements, the actual cost and associated fees paid by a school district for allowable hazardous materials evaluation and removal exceeds the grant apportionment.

The people of the State of California do enact as follows:

SECTION 1. Section 17072.14 is added to the Education Code, to read:

17072.14. Notwithstanding Section 17070.63, the board may allow adjustments to a new construction grant if, as a result of additional requirements imposed by the Department of Toxic Substances Control, the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal, including associated fees, exceeds the amount of the grant apportionment for those purposes. The combined amount of the initial apportionment for these purposes and the adjustment pursuant to this section may not exceed the amount permitted pursuant to Section 17072.13.

**State Allocation Board
Implementation Committee
February 6, 2004**

**CHANGES TO THE SCHOOL FACILITY PROGRAM (SFP)
ADDITIONAL GRANT FOR ENERGY EFFICIENCY**

BACKGROUND

Assembly Bill 16 created an additional grant adjustment to cover the increased costs for the design and construction of project components associated with school facility energy efficiency. From Proposition 47 funds, \$14.2 million was reserved for new construction projects that exceed non-residential energy efficiency standards by at least 15 percent, and \$5.8 million was reserved for modernization projects that exceed non-residential energy efficiency standards by at least 10 percent. To date, there have been minimal requests for the funds available for energy efficiency. At the December 2003 meeting of the State Allocation Board (SAB), the funds earmarked for modernization energy funding were temporarily moved back into the general modernization fund. As of the January 2004 SAB meeting, \$13.3 million remains in the new construction fund.

The Board requested that the Office of Public School Construction (OPSC) report on the means that would ensure greater utilization of energy funds for future projects and remove potential obstacles in the energy program. The OPSC initiated a task force to find ways to improve the process and increase participation in the program. The task force consisted of participants from the Legislature, the OPSC, and the Division of the State Architect (DSA), the California Energy Commission, and stakeholders.

DISCUSSION

As a result of the task force discussions, the DSA eased the requirement a project must meet in order to qualify for additional energy funds. Initially, in order for a project to be eligible, every building within the project was required to surpass the energy threshold. The amended requirement determines a project's eligibility for the energy grant by calculating the weighted average of the energy savings for all buildings in the project.

Additionally, the OPSC is proposing to change the formulas that calculate the SFP energy grants. The proposed formulas create grant calculations based on a more closely stepped gradual scale that more precisely accommodates smaller incremental increases in the project's energy efficiency scores. This allows a project to be more appropriately compensated according to its level of energy efficiency. Please refer to the examples on the Energy Grant Calculator on Attachment A. Proposed amendments to the SFP regulations that reflect these proposed formula changes are shown on Attachment B. Excerpts from the law that authorized the energy grants are provided on Attachment C.

RECOMMENDATION

Present the proposed regulatory amendments to the State Allocation Board.

ATTACHMENT A
ENERGY GRANT CALCULATOR EXAMPLES

NEW CONSTRUCTION	% Energy Efficiency	Grant Multiplier	\$ Proposed Regs	\$ Current Regs
	The percentage by which the project exceeds Title 24 energy efficiency standards	The number by which the New Construction Grant is multiplied to calculate the Additional Grant for Energy Efficiency	The per pupil amount of the Additional Grant for Energy Efficiency (for elementary school, 2004 base grant \$6040)	
	15	0.01	\$60.40	\$60.40
	15.1	0.0104	\$62.82	\$60.40
	15.2	0.0108	\$65.23	\$60.40
	15.3	0.0112	\$67.65	\$60.40
	15.4	0.0116	\$70.06	\$60.40
	15.5	0.012	\$72.48	\$60.40
	15.6	0.0124	\$74.90	\$60.40
	15.7	0.0128	\$77.31	\$60.40
	15.8	0.0132	\$79.73	\$60.40
	15.9	0.0136	\$82.14	\$60.40
	16	0.014	\$84.56	\$84.56
	16.1	0.0144	\$86.98	\$84.56
	16.2	0.0148	\$89.39	\$84.56
	[... to 25%]	[... to 0.05]	[... to \$302. 00]	[... to \$302. 00]

MODERNIZATION	% Energy Efficiency	Grant Multiplier	\$ Proposed Regs	\$ Current Regs
	The percentage by which the project exceeds Title 24 energy efficiency standards	The number by which the Modernization Grant is multiplied to calculate the Additional Grant for Energy Efficiency	The per pupil amount of the Additional Grant for Energy Efficiency (for elementary school, 2004 base grant \$2609)	
	10	0.01	\$26.09	\$26.09
	10.1	0.011	\$28.70	\$26.09
	10.2	0.012	\$31.31	\$26.09
	10.3	0.013	\$33.92	\$26.09
	10.4	0.014	\$36.53	\$26.09
	10.5	0.015	\$39.14	\$26.09
	10.6	0.016	\$41.74	\$26.09
	10.7	0.017	\$44.35	\$26.09
	10.8	0.018	\$46.96	\$26.09
	10.9	0.019	\$49.57	\$26.09
	11	0.02	\$52.18	\$52.18
	11.1	0.021	\$54.79	\$52.18
	11.2	0.022	\$57.40	\$52.18
	[... to 14%]	[... to 0.05]	[... to \$130.45]	[... to \$130.45]

ATTACHMENT B

Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
 - (1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
 - (2) ~~The proposed facilities~~ average energy efficiency score of all the buildings in the project, as determined by Energy Pro 3.1 or a similar computer program approved by the CEC, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent ~~as determined by Energy Pro 3.1 or a similar computer program approved by the CEC.~~
 - (3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
 - (4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC.
 - (5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
- (b) An amount equal to the lesser of the following:
 - (1) The New Construction Grant multiplied by: one percent if the percentage of energy efficiency is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.
 - (A) ~~One percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 15 percent but less than 17.5 percent.~~
 - (B) ~~Two percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 17.5 percent but less than 20 percent.~~
 - (C) ~~Three percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 20 percent but less than 22.5 percent.~~
 - (D) ~~Four percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 22.5 percent but less than 25 percent.~~
 - (E) ~~Five percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 25 percent.~~
 - (2) The funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
 - (1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
 - (2) ~~The proposed facilities~~ average energy efficiency score of all the buildings in the project, as determined by Energy Pro 3.1 or a similar computer program approved by the CEC, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent ~~as determined by Energy Pro 3.1 or a similar computer program approved by the CEC.~~
 - (3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
 - (4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC.
 - (5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
- (b) An amount equal to the lesser of (b)(1) or (b)(2):
 - (1) The Modernization Grant multiplied by: one percent if the percentage of energy efficiency is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.
 - ~~(A) One percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 10 percent but less than 11 percent.~~
 - ~~(B) Two percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 11 percent but less than 12 percent.~~
 - ~~(C) Three percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 12 percent but less than 13 percent.~~
 - ~~(D) Four percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 13 percent but less than 14 percent.~~
 - ~~(E) Five percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 14 percent.~~
 - (2) The remaining funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the modernization project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

ATTACHMENT C

CALIFORNIA CODES EDUCATION CODE

17077.35.

... (c) In order to be eligible for the grant adjustment pursuant to this section, the building proposed for the project, including the energy-efficiency and renewable energy measures utilized pursuant to this section, shall exceed the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California **Code** of Regulations by an amount not less than 15 percent for new construction projects and not less than 10 percent for modernization projects, and shall be shown to provide sufficient energy savings to return the cost of the initial investment in the project over a period not to exceed seven years. The applicant shall certify that the cost for the project exceeds the amount of funding otherwise available to the applicant under this chapter.

(d) The board shall provide an applicant for a new construction or modernization project with a grant adjustment to provide an increase not to exceed 5 percent of its state grants authorized by Sections 17072.10 and 17074.10 for the state's share of costs associated with design and other plan components related to school facility energy efficiency as set forth in this article.

100620. (2002 State Bonds)

(a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

... (e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars (\$20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

100820. (Potential 2004 State Bonds)

(a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, as specified in subdivision (a) of Section 100810 shall be allocated in accordance with the following schedule:

... (e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars (\$20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.